

AMENDED IN SENATE MAY 24, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 662

**Introduced by Assembly Members Atkins, Dickinson, Mitchell,
Perea, Ting, and Torres**

February 21, 2013

An act to amend Section 53395.4 of the Government Code, *and to amend Sections 34163, 34171, 34177, 34178, 34191.4, and 34191.5 of the Health and Safety Code*, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

AB 662, as amended, Atkins. Local government: infrastructure financing districts.

~~Existing~~

(1) *Existing* law authorizes the creation of infrastructure financing districts, as defined, for the sole purpose of financing public facilities, subject to adoption of a resolution by the legislative body and affected taxing entities proposed to be subject to the division of taxes and voter approval requirements. Existing law prohibits ~~on an~~ infrastructure financing district from including any portion of a redevelopment project area. ~~Existing law, effective February 1, 2012, dissolved all redevelopment agencies and community development agencies and provides for the designation of successor agencies, as specified.~~

This bill would delete the *that* prohibition on infrastructure financing district including any portion of a redevelopment project area.

(2) *Existing law dissolved redevelopment agencies and community development agencies as of February 1, 2012, and provides for the designation of successor agencies to wind down the affairs of the dissolved redevelopment agencies and to, among other things, make*

payments due for enforceable obligations and to perform obligations required pursuant to any enforceable obligation. Existing law prohibits a successor agency from entering into contracts with, incur obligations, or make commitments to, any entity, as specified, or to amend or modify existing agreements, obligations, or commitments with any entity, for any purpose.

This bill would authorize a successor agency, if the successor agency has received a finding of completion, to enter into, or amend existing, contracts and agreements, make land use decisions, or otherwise administer projects in connection with long-term enforceable obligations, if the contract or agreement, land use decision, or project will not commit new tax funds or otherwise adversely affect the flow of tax increment to the taxing agencies.

(3) Existing law specifies that the term “enforceable obligation” does not include any agreements, contracts, or arrangements between the city, county, or city and county that created the redevelopment agency and the former redevelopment agency, as specified.

This bill would provide that an agreement entered into between the redevelopment agency and the city, county, or city and county that created the redevelopment agency prior to October 1, 2011, is an enforceable obligation if the agreement relates to a project identified, in whole or in part, in an infill infrastructure grant program disbursement agreement entered into by the Department of Housing and Community Development pursuant to the Infill Infrastructure Grant Program.

(4) Existing law requires a successor agency to submit a Recognized Obligation Payment Schedule to the Department of Finance, and requires the successor agency to make payments pursuant to that schedule.

This bill would authorize the successor agency to schedule Recognized Obligation Payment Schedule payments beyond the existing Recognized Obligation Payment Schedule cycle upon a showing that a lender requires cash on hand beyond the Recognized Obligation Payment Schedule cycle, or when a payment is shown to be due during the Recognized Obligation Payment Schedule period. The bill would authorize the successor agency to utilize reasonable estimates and projections to support payment amounts where a payment is shown to be due during the Recognized Obligation Payment Schedule period but an invoice or other billing document has not been received if the successor agency submits appropriate supporting documentation for

the basis of the estimate or projection to the department. The bill would provide that a Recognized Obligation Payment Schedule may also include appropriation of moneys from bonds subject to passage during the Recognized Obligation Payment Schedule cycle when an enforceable obligation requires the agency to issue the bonds and use the proceeds to pay for project expenditures.

(5) Existing law specifies that certain loan agreements entered into by a former redevelopment agency are enforceable obligations and sets forth the requirement for repayment of those loans, as specified.

This bill would prohibit the loan repayment schedule from including amounts paid back pursuant to the due diligence review process during the 2012–13 base year.

(6) Existing law requires a successor agency to prepare a long-range property management plan that addresses the disposition and use of the real properties of a former redevelopment agency and requires a transfer of the property to the city, county, or city and county if the plan directs the use or liquidation of the property for a project identified in an approved redevelopment plan, as specified.

This bill would specify that the term “identified in an approved redevelopment plan” includes properties listed in a community plan, a 5-year implementation plan, or other similar document.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 53395.4 of the Government Code is
2 amended to read:

3 53395.4. (a) A district may finance only the facilities or
4 services authorized in this chapter to the extent that the facilities
5 or services are in addition to those provided in the territory of the
6 district before the district was created. The additional facilities or
7 services may not supplant facilities or services already available
8 within that territory when the district was created but may
9 supplement those facilities and services as needed to serve new
10 developments.

11 (b) A district may include areas that are not contiguous.

12 SEC. 2. Section 34163 of the Health and Safety Code is
13 amended to read:

1 34163. Notwithstanding Part 1 (commencing with Section
2 33000), Part 1.5 (commencing with Section 34000), Part 1.6
3 (commencing with Section 34050), and Part 1.7 (commencing
4 with Section 34100), or any other law, commencing on the effective
5 date of this part, an agency shall not have the authority to, and
6 shall not, do any of the following:

7 (a) Make loans or advances or grant or enter into agreements
8 to provide funds or provide financial assistance of any sort to any
9 entity or person for any purpose, including, but not limited to, all
10 of the following:

11 (1) Loans of moneys or any other thing of value or commitments
12 to provide financing to nonprofit organizations to provide those
13 organizations with financing for the acquisition, construction,
14 rehabilitation, refinancing, or development of multifamily rental
15 housing or the acquisition of commercial property for lease, each
16 pursuant to Chapter 7.5 (commencing with Section 33741) of Part
17 1.

18 (2) Loans of moneys or any other thing of value for residential
19 construction, improvement, or rehabilitation pursuant to Chapter
20 8 (commencing with Section 33750) of Part 1. These include, but
21 are not limited to, construction loans to purchasers of residential
22 housing, mortgage loans to purchasers of residential housing, and
23 loans to mortgage lenders, or any other entity, to aid in financing
24 pursuant to Chapter 8 (commencing with Section 33750).

25 (3) The purchase, by an agency, of mortgage or construction
26 loans from mortgage lenders or from any other entities.

27 (b) (1) Enter into contracts with, incur obligations, or make
28 commitments to, any entity, whether governmental, tribal, or
29 private, or any individual or groups of individuals for any purpose,
30 including, but not limited to, loan agreements, passthrough
31 agreements, regulatory agreements, services contracts, leases,
32 disposition and development agreements, joint exercise of powers
33 agreements, contracts for the purchase of capital equipment,
34 agreements for redevelopment activities, including, but not limited
35 to, agreements for planning, design, redesign, development,
36 demolition, alteration, construction, reconstruction, rehabilitation,
37 site remediation, site development or improvement, removal of
38 graffiti, land clearance, and seismic retrofits.

39 (2) *Notwithstanding paragraph (1), if a successor agency has*
40 *received a finding of completion, the successor agency may enter*

1 *into, or amend existing, contracts and agreements, make land use*
2 *decisions, or otherwise administer projects in connection with*
3 *long-term enforceable obligations, if the contract or agreement,*
4 *land use decision, or project will not commit new tax funds, or*
5 *will not otherwise adversely affect the flow of tax increment to the*
6 *taxing agencies.*

7 (c) Amend or modify existing agreements, obligations, or
8 commitments with any entity, for any purpose, including, but not
9 limited to, any of the following:

10 (1) Renewing or extending term of leases or other agreements,
11 except that the agency may extend lease space for its own use to
12 a date not to exceed six months after the effective date of the act
13 adding this part and for a rate no more than 5 percent above the
14 rate the agency currently pays on a monthly basis.

15 (2) Modifying terms and conditions of existing agreements,
16 obligations, or commitments.

17 (3) Forgiving all or any part of the balance owed to the agency
18 on existing loans or extend the term or change the terms and
19 conditions of existing loans.

20 (4) Making any future deposits to the Low and Moderate Income
21 Housing Fund created pursuant to Section 33334.3.

22 (5) Transferring funds out of the Low and Moderate Income
23 Housing Fund, except to meet the minimum housing-related
24 obligations that existed as of January 1, 2011, to make required
25 payments under Sections 33690 and 33690.5, and to borrow funds
26 pursuant to Section 34168.5.

27 (d) Dispose of assets by sale, long-term lease, gift, grant,
28 exchange, transfer, assignment, or otherwise, for any purpose,
29 including, but not limited to, any of the following:

30 (1) Assets, including, but not limited to, real property, deeds of
31 trust, and mortgages held by the agency, moneys, accounts
32 receivable, contract rights, proceeds of insurance claims, grant
33 proceeds, settlement payments, rights to receive rents, and any
34 other rights to payment of whatever kind.

35 (2) Real property, including, but not limited to, land, land under
36 water and waterfront property, buildings, structures, fixtures, and
37 improvements on the land, any property appurtenant to, or used
38 in connection with, the land, every estate, interest, privilege,
39 easement, franchise, and right in land, including rights-of-way,
40 terms for years, and liens, charges, or encumbrances by way of

1 judgment, mortgage, or otherwise, and the indebtedness secured
2 by the liens.

3 (e) Acquire real property by any means for any purpose,
4 including, but not limited to, the purchase, lease, or exercising of
5 an option to purchase or lease, exchange, subdivide, transfer,
6 assume, obtain option upon, acquire by gift, grant, bequest, devise,
7 or otherwise acquire any real property, any interest in real property,
8 and any improvements on it, including the repurchase of developed
9 property previously owned by the agency and the acquisition of
10 real property by eminent domain; provided, however, that nothing
11 in this subdivision is intended to prohibit the acceptance or transfer
12 of title for real property acquired prior to the effective date of this
13 part.

14 (f) Transfer, assign, vest, or delegate any of its assets, funds,
15 rights, powers, ownership interests, or obligations for any purpose
16 to any entity, including, but not limited to, the community, the
17 legislative body, another member of a joint powers authority, a
18 trustee, a receiver, a partner entity, another agency, a nonprofit
19 corporation, a contractual counterparty, a public body, a
20 limited-equity housing cooperative, the state, a political subdivision
21 of the state, the federal government, any private entity, or an
22 individual or group of individuals.

23 (g) Accept financial or other assistance from the state or federal
24 government or any public or private source if the acceptance
25 necessitates or is conditioned upon the agency incurring
26 indebtedness as that term is described in this part.

27 *SEC. 3. Section 34171 of the Health and Safety Code is*
28 *amended to read:*

29 34171. The following terms shall have the following meanings:

30 (a) “Administrative budget” means the budget for administrative
31 costs of the successor agencies as provided in Section 34177.

32 (b) “Administrative cost allowance” means an amount that,
33 subject to the approval of the oversight board, is payable from
34 property tax revenues of up to 5 percent of the property tax
35 allocated to the successor agency on the Recognized Obligation
36 Payment Schedule covering the period January 1, 2012, through
37 June 30, 2012, and up to 3 percent of the property tax allocated to
38 the Redevelopment Obligation Retirement Fund money that is
39 allocated to the successor agency for each fiscal year thereafter;
40 provided, however, that the amount shall not be less than two

1 hundred fifty thousand dollars (\$250,000), unless the oversight
2 board reduces this amount, for any fiscal year or such lesser amount
3 as agreed to by the successor agency. However, the allowance
4 amount shall exclude, and shall not apply to, any administrative
5 costs that can be paid from bond proceeds or from sources other
6 than property tax. Administrative cost allowances shall exclude
7 any litigation expenses related to assets or obligations, settlements
8 and judgments, and the costs of maintaining assets prior to
9 disposition. Employee costs associated with work on specific
10 project implementation activities, including, but not limited to,
11 construction inspection, project management, or actual
12 construction, shall be considered project-specific costs and shall
13 not constitute administrative costs.

14 (c) “Designated local authority” shall mean a public entity
15 formed pursuant to subdivision (d) of Section 34173.

16 (d) (1) “Enforceable obligation” means any of the following:

17 (A) Bonds, as defined by Section 33602 and bonds issued
18 pursuant to Chapter 10.5 (commencing with Section 5850) of
19 Division 6 of Title 1 of the Government Code, including the
20 required debt service, reserve set-asides, and any other payments
21 required under the indenture or similar documents governing the
22 issuance of the outstanding bonds of the former redevelopment
23 agency. A reserve may be held when required by the bond
24 indenture or when the next property tax allocation will be
25 insufficient to pay all obligations due under the provisions of the
26 bond for the next payment due in the following half of the calendar
27 year.

28 (B) Loans of moneys borrowed by the redevelopment agency
29 for a lawful purpose, to the extent they are legally required to be
30 repaid pursuant to a required repayment schedule or other
31 mandatory loan terms.

32 (C) Payments required by the federal government, preexisting
33 obligations to the state or obligations imposed by state law, other
34 than passthrough payments that are made by the county
35 auditor-controller pursuant to Section 34183, or legally enforceable
36 payments required in connection with the agencies’ employees,
37 including, but not limited to, pension payments, pension obligation
38 debt service, unemployment payments, or other obligations
39 conferred through a collective bargaining agreement. Costs incurred
40 to fulfill collective bargaining agreements for layoffs or

1 terminations of city employees who performed work directly on
2 behalf of the former redevelopment agency shall be considered
3 enforceable obligations payable from property tax funds. The
4 obligations to employees specified in this subparagraph shall
5 remain enforceable obligations payable from property tax funds
6 for any employee to whom those obligations apply if that employee
7 is transferred to the entity assuming the housing functions of the
8 former redevelopment agency pursuant to Section 34176. The
9 successor agency or designated local authority shall enter into an
10 agreement with the housing entity to reimburse it for any costs of
11 the employee obligations.

12 (D) Judgments or settlements entered by a competent court of
13 law or binding arbitration decisions against the former
14 redevelopment agency, other than passthrough payments that are
15 made by the county auditor-controller pursuant to Section 34183.
16 Along with the successor agency, the oversight board shall have
17 the authority and standing to appeal any judgment or to set aside
18 any settlement or arbitration decision.

19 (E) Any legally binding and enforceable agreement or contract
20 that is not otherwise void as violating the debt limit or public
21 policy. However, nothing in this act shall prohibit either the
22 successor agency, with the approval or at the direction of the
23 oversight board, or the oversight board itself from terminating any
24 existing agreements or contracts and providing any necessary and
25 required compensation or remediation for such termination. Titles
26 of or headings used on or in a document shall not be relevant in
27 determining the existence of an enforceable obligation.

28 (F) Contracts or agreements necessary for the administration or
29 operation of the successor agency, in accordance with this part,
30 including, but not limited to, agreements concerning litigation
31 expenses related to assets or obligations, settlements and
32 judgements, and the costs of maintaining assets prior to disposition,
33 and agreements to purchase or rent office space, equipment and
34 supplies, and pay-related expenses pursuant to Section 33127 and
35 for carrying insurance pursuant to Section 33134.

36 (G) Amounts borrowed from, or payments owing to, the Low
37 and Moderate Income Housing Fund of a redevelopment agency,
38 which had been deferred as of the effective date of the act adding
39 this part; provided, however, that the repayment schedule is
40 approved by the oversight board. Repayments shall be transferred

to the Low and Moderate Income Housing Asset Fund established pursuant to subdivision (d) of Section 34176 as a housing asset and shall be used in a manner consistent with the affordable housing requirements of the Community Redevelopment Law (Part 1 (commencing with Section 33000)).

(2) For purposes of this part, “enforceable obligation” does not include any agreements, contracts, or arrangements between the city, county, or city and county that created the redevelopment agency and the former redevelopment agency. However, written agreements entered into (A) at the time of issuance, but in no event later than December 31, 2010, of indebtedness obligations, and (B) solely for the purpose of securing or repaying those indebtedness obligations may be deemed enforceable obligations for purposes of this part. Notwithstanding this paragraph, loan agreements entered into between the redevelopment agency and the city, county, or city and county that created it, within two years of the date of creation of the redevelopment agency, may be deemed to be enforceable obligations. *Notwithstanding this paragraph, an agreement entered into between the redevelopment agency and the city, county, or city and county that created the redevelopment agency prior to October 1, 2011, is an enforceable obligation if the agreement relates to a project identified, in whole or in part, in an infill infrastructure grant program disbursement agreement entered into by the Department of Housing and Community Development pursuant to the Infill Infrastructure Grant Program and in accordance with Part 12 (commencing with Section 53545.12) of Division 31.*

(3) Contracts or agreements between the former redevelopment agency and other public agencies, to perform services or provide funding for governmental or private services or capital projects outside of redevelopment project areas that do not provide benefit to the redevelopment project and thus were not properly authorized under Part 1 (commencing with Section 33000) shall be deemed void on the effective date of this part; provided, however, that such contracts or agreements for the provision of housing properly authorized under Part 1 (commencing with Section 33000) shall not be deemed void.

(e) “Indebtedness obligations” means bonds, notes, certificates of participation, or other evidence of indebtedness, issued or delivered by the redevelopment agency, or by a joint exercise of

1 powers authority created by the redevelopment agency, to
2 third-party investors or bondholders to finance or refinance
3 redevelopment projects undertaken by the redevelopment agency
4 in compliance with the Community Redevelopment Law (Part 1
5 (commencing with Section 33000)).

6 (f) "Oversight board" shall mean each entity established pursuant
7 to Section 34179.

8 (g) "Recognized obligation" means an obligation listed in the
9 Recognized Obligation Payment Schedule.

10 (h) "Recognized Obligation Payment Schedule" means the
11 document setting forth the minimum payment amounts and due
12 dates of payments required by enforceable obligations for each
13 six-month fiscal period as provided in subdivision (m) of Section
14 34177.

15 (i) "School entity" means any entity defined as such in
16 subdivision (f) of Section 95 of the Revenue and Taxation Code.

17 (j) "Successor agency" means the successor entity to the former
18 redevelopment agency as described in Section 34173.

19 (k) "Taxing entities" means cities, counties, a city and county,
20 special districts, and school entities, as defined in subdivision (f)
21 of Section 95 of the Revenue and Taxation Code, that receive
22 passthrough payments and distributions of property taxes pursuant
23 to the provisions of this part.

24 (l) "Property taxes" include all property tax revenues, including
25 those from unitary and supplemental and roll corrections applicable
26 to tax increment.

27 (m) "Department" means the Department of Finance unless the
28 context clearly refers to another state agency.

29 (n) "Sponsoring entity" means the city, county, or city and
30 county, or other entity that authorized the creation of each
31 redevelopment agency.

32 (o) "Final judicial determination" means a final judicial
33 determination made by any state court that is not appealed, or by
34 a court of appellate jurisdiction that is not further appealed, in an
35 action by any party.

36 *SEC. 4. Section 34177 of the Health and Safety Code is*
37 *amended to read:*

38 34177. Successor agencies are required to do all of the
39 following:

40 (a) Continue to make payments due for enforceable obligations.

(1) On and after February 1, 2012, and until a Recognized Obligation Payment Schedule becomes operative, only payments required pursuant to an enforceable obligations payment schedule shall be made. The initial enforceable obligation payment schedule shall be the last schedule adopted by the redevelopment agency under Section 34169. However, payments associated with obligations excluded from the definition of enforceable obligations by paragraph (2) of subdivision (d) of Section 34171 shall be excluded from the enforceable obligations payment schedule and be removed from the last schedule adopted by the redevelopment agency under Section 34169 prior to the successor agency adopting it as its enforceable obligations payment schedule pursuant to this subdivision. The enforceable obligation payment schedule may be amended by the successor agency at any public meeting and shall be subject to the approval of the oversight board as soon as the board has sufficient members to form a quorum. In recognition of the fact that the timing of the California Supreme Court's ruling in the case California Redevelopment Association v. Matosantos (2011) 53 Cal.4th 231 delayed the preparation by successor agencies and the approval by oversight boards of the January 1, 2012, through June 30, 2012, Recognized Obligation Payment Schedule, a successor agency may amend the Enforceable Obligation Payment Schedule to authorize the continued payment of enforceable obligations until the time that the January 1, 2012, through June 30, 2012, Recognized Obligation Payment Schedule has been approved by the oversight board and by the Department of Finance. *The successor agency may utilize reasonable estimates and projections to support payment amounts for enforceable obligations if the successor agency submits appropriate supporting documentation of the basis for the estimate or projection to the Department of Finance.*

(2) The Department of Finance and the Controller shall each have the authority to require any documents associated with the enforceable obligations to be provided to them in a manner of their choosing. Any taxing entity, the department, and the Controller shall each have standing to file a judicial action to prevent a violation under this part and to obtain injunctive or other appropriate relief.

(3) Commencing on the date the Recognized Obligation Payment Schedule is valid pursuant to subdivision (1), only those payments

1 listed in the Recognized Obligation Payment Schedule may be
2 made by the successor agency from the funds specified in the
3 Recognized Obligation Payment Schedule. In addition, after it
4 becomes valid, the Recognized Obligation Payment Schedule shall
5 supersede the Statement of Indebtedness, which shall no longer
6 be prepared nor have any effect under the Community
7 Redevelopment Law (Part 1 (commencing with Section 33000)).

8 (4) Nothing in the act adding this part is to be construed as
9 preventing a successor agency, with the prior approval of the
10 oversight board, as described in Section 34179, from making
11 payments for enforceable obligations from sources other than those
12 listed in the Recognized Obligation Payment Schedule.

13 (5) From February 1, 2012, to July 1, 2012, a successor agency
14 shall have no authority and is hereby prohibited from accelerating
15 payment or making any lump-sum payments that are intended to
16 prepay loans unless such accelerated repayments were required
17 prior to the effective date of this part.

18 (b) Maintain reserves in the amount required by indentures,
19 trust indentures, or similar documents governing the issuance of
20 outstanding redevelopment agency bonds.

21 (c) Perform obligations required pursuant to any enforceable
22 obligation.

23 (d) Remit unencumbered balances of redevelopment agency
24 funds to the county auditor-controller for distribution to the taxing
25 entities, including, but not limited to, the unencumbered balance
26 of the Low and Moderate Income Housing Fund of a former
27 redevelopment agency. In making the distribution, the county
28 auditor-controller shall utilize the same methodology for allocation
29 and distribution of property tax revenues provided in Section
30 34188.

31 (e) Dispose of assets and properties of the former redevelopment
32 agency as directed by the oversight board; provided, however, that
33 the oversight board may instead direct the successor agency to
34 transfer ownership of certain assets pursuant to subdivision (a) of
35 Section 34181. The disposal is to be done expeditiously and in a
36 manner aimed at maximizing value. Proceeds from asset sales and
37 related funds that are no longer needed for approved development
38 projects or to otherwise wind down the affairs of the agency, each
39 as determined by the oversight board, shall be transferred to the
40 county auditor-controller for distribution as property tax proceeds

1 under Section 34188. The requirements of this subdivision shall
2 not apply to a successor agency that has been issued a finding of
3 completion by the Department of Finance pursuant to Section
4 34179.7.

5 (f) Enforce all former redevelopment agency rights for the
6 benefit of the taxing entities, including, but not limited to,
7 continuing to collect loans, rents, and other revenues that were due
8 to the redevelopment agency.

9 (g) Effectuate transfer of housing functions and assets to the
10 appropriate entity designated pursuant to Section 34176.

11 (h) Expeditiously wind down the affairs of the redevelopment
12 agency pursuant to the provisions of this part and in accordance
13 with the direction of the oversight board.

14 (i) Continue to oversee development of properties until the
15 contracted work has been completed or the contractual obligations
16 of the former redevelopment agency can be transferred to other
17 parties. Bond proceeds shall be used for the purposes for which
18 bonds were sold unless the purposes can no longer be achieved,
19 in which case, the proceeds may be used to defease the bonds.

20 (j) Prepare a proposed administrative budget and submit it to
21 the oversight board for its approval. The proposed administrative
22 budget shall include all of the following:

23 (1) Estimated amounts for successor agency administrative costs
24 for the upcoming six-month fiscal period.

25 (2) Proposed sources of payment for the costs identified in
26 paragraph (1).

27 (3) Proposals for arrangements for administrative and operations
28 services provided by a city, county, city and county, or other entity.

29 (k) Provide administrative cost estimates, from its approved
30 administrative budget that are to be paid from property tax revenues
31 deposited in the Redevelopment Property Tax Trust Fund, to the
32 county auditor-controller for each six-month fiscal period.

33 (l) (1) Before each six-month fiscal period, prepare a
34 Recognized Obligation Payment Schedule in accordance with the
35 requirements of this paragraph. For each recognized obligation,
36 the Recognized Obligation Payment Schedule shall identify one
37 or more of the following sources of payment:

38 (A) Low and Moderate Income Housing Fund.

39 (B) Bond proceeds.

40 (C) Reserve balances.

1 (D) Administrative cost allowance.

2 (E) The Redevelopment Property Tax Trust Fund, but only to
3 the extent no other funding source is available or when payment
4 from property tax revenues is required by an enforceable obligation
5 or by the provisions of this part.

6 (F) Other revenue sources, including rents, concessions, asset
7 sale proceeds, interest earnings, and any other revenues derived
8 from the former redevelopment agency, as approved by the
9 oversight board in accordance with this part.

10 (2) A Recognized Obligation Payment Schedule shall not be
11 deemed valid unless all of the following conditions have been met:

12 (A) A Recognized Obligation Payment Schedule is prepared
13 by the successor agency for the enforceable obligations of the
14 former redevelopment agency. The initial schedule shall project
15 the dates and amounts of scheduled payments for each enforceable
16 obligation for the remainder of the time period during which the
17 redevelopment agency would have been authorized to obligate
18 property tax increment had the a redevelopment agency not been
19 dissolved.

20 (B) The Recognized Obligation Payment Schedule is submitted
21 to and duly approved by the oversight board. The successor agency
22 shall submit a copy of the Recognized Obligation Payment
23 Schedule to the county administrative officer, the county
24 auditor-controller, and the Department of Finance at the same time
25 that the successor agency submits the Recognized Obligation
26 Payment Schedule to the oversight board for approval.

27 (C) A copy of the approved Recognized Obligation Payment
28 Schedule is submitted to the county auditor-controller and both
29 the Controller's office and the Department of Finance and be posted
30 on the successor agency's Internet Web site.

31 (3) The Recognized Obligation Payment Schedule shall be
32 forward looking to the next six months. The first Recognized
33 Obligation Payment Schedule shall be submitted to the Controller's
34 office and the Department of Finance by April 15, 2012, for the
35 period of January 1, 2012, to June 30, 2012, inclusive. This
36 Recognized Obligation Payment Schedule shall include all
37 payments made by the former redevelopment agency between
38 January 1, 2012, through January 31, 2012, and shall include all
39 payments proposed to be made by the successor agency from
40 February 1, 2012, through June 30, 2012. Former redevelopment

1 agency enforceable obligation payments due, and reasonable or
2 necessary administrative costs due or incurred, prior to January 1,
3 2012, shall be made from property tax revenues received in the
4 spring of 2011 property tax distribution, and from other revenues
5 and balances transferred to the successor agency.

6 (m) The Recognized Obligation Payment Schedule for the period
7 of January 1, 2013, to June 30, 2013, shall be submitted by the
8 successor agency, after approval by the oversight board, no later
9 than September 1, 2012. Commencing with the Recognized
10 Obligation Payment Schedule covering the period July 1, 2013,
11 through December 31, 2013, successor agencies shall submit an
12 oversight board-approved Recognized Obligation Payment
13 Schedule to the Department of Finance and to the county
14 auditor-controller no fewer than 90 days before the date of property
15 tax distribution. The Department of Finance shall make its
16 determination of the enforceable obligations and the amounts and
17 funding sources of the enforceable obligations no later than 45
18 days after the Recognized Obligation Payment Schedule is
19 submitted. Within five business days of the department's
20 determination, a successor agency may request additional review
21 by the department and an opportunity to meet and confer on
22 disputed items. The meet and confer period may vary; an untimely
23 submittal of a Recognized Obligation Payment Schedule may result
24 in a meet and confer period of less than 30 days. The department
25 shall notify the successor agency and the county auditor-controllers
26 as to the outcome of its review at least 15 days before the date of
27 property tax distribution.

28 (1) The successor agency shall submit a copy of the Recognized
29 Obligation Payment Schedule to the Department of Finance
30 electronically, and the successor agency shall complete the
31 Recognized Obligation Payment Schedule in the manner provided
32 for by the department. A successor agency shall be in
33 noncompliance with this paragraph if it only submits to the
34 department an electronic message or a letter stating that the
35 oversight board has approved a Recognized Obligation Payment
36 Schedule.

37 (2) If a successor agency does not submit a Recognized
38 Obligation Payment Schedule by the deadlines provided in this
39 subdivision, the city, county, or city and county that created the
40 redevelopment agency shall be subject to a civil penalty equal to

1 ten thousand dollars (\$10,000) per day for every day the schedule
2 is not submitted to the department. The civil penalty shall be paid
3 to the county auditor-controller for allocation to the taxing entities
4 under Section 34183. If a successor agency fails to submit a
5 Recognized Obligation Payment Schedule by the deadline, any
6 creditor of the successor agency or the Department of Finance or
7 any affected taxing entity shall have standing to and may request
8 a writ of mandate to require the successor agency to immediately
9 perform this duty. Those actions may be filed only in the County
10 of Sacramento and shall have priority over other civil matters.
11 Additionally, if an agency does not submit a Recognized Obligation
12 Payment Schedule within ten days of the deadline, the maximum
13 administrative cost allowance for that period shall be reduced by
14 25 percent.

15 (3) If a successor agency fails to submit to the department an
16 oversight board-approved Recognized Obligation Payment
17 Schedule that complies with all requirements of this subdivision
18 within five business days of the date upon which the Recognized
19 Obligation Payment Schedule is to be used to determine the amount
20 of property tax allocations, the department may determine if any
21 amount should be withheld by the county auditor-controller for
22 payments for enforceable obligations from distribution to taxing
23 entities, pending approval of a Recognized Obligation Payment
24 Schedule. The county auditor-controller shall distribute the portion
25 of any of the sums withheld pursuant to this paragraph to the
26 affected taxing entities in accordance with paragraph (4) of
27 subdivision (a) of Section 34183 upon notice by the department
28 that a portion of the withheld balances are in excess of the amount
29 of enforceable obligations. The county auditor-controller shall
30 distribute withheld funds to the successor agency only in
31 accordance with a Recognized Obligation Payment Schedule
32 approved by the department. County auditor-controllers shall lack
33 the authority to withhold any other amounts from the allocations
34 provided for under Section 34183 or 34188 unless required by a
35 court order.

36 (4) (A) *The Recognized Obligation Payment Schedule payments*
37 *required pursuant to this subdivision may be scheduled beyond*
38 *the existing Recognized Obligation Payment Schedule cycle upon*
39 *a showing that a lender requires cash on hand beyond the*
40 *Recognized Obligation Payment Schedule cycle.*

1 (B) When a payment is shown to be due during the Recognized
2 Obligation Payment Schedule period, but an invoice or other
3 billing document has not yet been received, the successor agency
4 may utilize reasonable estimates and projections to support
5 payment amounts for enforceable obligations if the successor
6 agency submits appropriate supporting documentation of the basis
7 for the estimate or projection to the department.

8 (C) A Recognized Obligation Payment Schedule may also
9 include appropriation of moneys from bonds subject to passage
10 during the Recognized Obligation Payment Schedule cycle when
11 an enforceable obligation requires the agency to issue the bonds
12 and use the proceeds to pay for project expenditures.

13 (n) Cause a postaudit of the financial transactions and records
14 of the successor agency to be made at least annually by a certified
15 public accountant.

16 SEC. 5. Section 34178 of the Health and Safety Code is
17 amended to read:

18 34178. (a) Commencing on the operative date of this part,
19 agreements, contracts, or arrangements between the city or county,
20 or city and county that created the redevelopment agency and the
21 redevelopment agency are invalid and shall not be binding on the
22 successor agency; provided, however, that a successor entity
23 wishing to enter or reenter into agreements with the city, county,
24 or city and county that formed the redevelopment agency that it
25 is succeeding may do so upon obtaining the approval of its
26 oversight board. A successor agency or an oversight board shall
27 not exercise the powers granted by this subdivision to restore
28 funding for an enforceable obligation that was deleted or reduced
29 by the Department of Finance pursuant to subdivision (h) of Section
30 34179 unless it reflects the decisions made during the meet and
31 confer process with the Department of Finance or pursuant to a
32 court order.

33 (b) Notwithstanding subdivision (a), any of the following
34 agreements are not invalid and may bind the successor agency:

35 (1) A duly authorized written agreement entered into at the time
36 of issuance, but in no event later than December 31, 2010, of
37 indebtedness obligations, and solely for the purpose of securing
38 or repaying those indebtedness obligations.

39 (2) A written agreement between a redevelopment agency and
40 the city, county, or city and county that created it that provided

1 loans or other startup funds for the redevelopment agency that
2 were entered into within two years of the formation of the
3 redevelopment agency.

4 (3) A joint exercise of powers agreement in which the
5 redevelopment agency is a member of the joint powers authority.
6 However, upon assignment to the successor agency by operation
7 of the act adding this part, the successor agency's rights, duties,
8 and performance obligations under that joint exercise of powers
9 agreement shall be limited by the constraints imposed on successor
10 agencies by the act adding this part.

11 (4) *An agreement entered into between the redevelopment*
12 *agency and the city, county, or city and county that created the*
13 *redevelopment agency prior to October 1, 2011, if the agreement*
14 *relates to a project identified, in whole or in part, in an infill*
15 *infrastructure grant program disbursement agreement entered*
16 *into by the Department of Housing and Community Development*
17 *pursuant to the Infill Infrastructure Grant Program in accordance*
18 *with Part 12 (commencing with Section 53545.12) of Division 31.*

19 SEC. 6. *Section 34191.4 of the Health and Safety Code is*
20 *amended to read:*

21 34191.4. The following provisions shall apply to any successor
22 agency that has been issued a finding of completion by the
23 Department of Finance:

24 (a) All real property and interests in real property identified in
25 subparagraph (C) of paragraph (5) of subdivision (c) of Section
26 34179.5 shall be transferred to the Community Redevelopment
27 Property Trust Fund of the successor agency upon approval by the
28 Department of Finance of the long-range property management
29 plan submitted by the successor agency pursuant to subdivision
30 (b) of Section 34191.7 unless that property is subject to the
31 requirements of any existing enforceable obligation.

32 (b) (1) Notwithstanding subdivision (d) of Section 34171, upon
33 application by the successor agency and approval by the oversight
34 board, loan agreements entered into between the redevelopment
35 agency and the city, county, or city and county that created by the
36 redevelopment agency shall be deemed to be enforceable
37 obligations provided that the oversight board makes a finding that
38 the loan was for legitimate redevelopment purposes.

39 (2) If the oversight board finds that the loan is an enforceable
40 obligation, the accumulated interest on the remaining principal

1 amount of the loan shall be recalculated from origination at the
2 interest rate earned by funds deposited into the Local Agency
3 Investment Fund. The loan shall be repaid to the city, county, or
4 city and county in accordance with a defined schedule over a
5 reasonable term of years at an interest rate not to exceed the interest
6 rate earned by funds deposited into the Local Agency Investment
7 Fund. The annual loan repayments provided for in the recognized
8 obligations payment schedules shall be subject to all of the
9 following limitations:

10 (A) Loan repayments shall not be made prior to the 2013–14
11 fiscal year. Beginning in the 2013–14 fiscal year, the maximum
12 repayment amount authorized each fiscal year for repayments
13 made pursuant to this subdivision and paragraph (7) of subdivision
14 (e) of Section 34176 combined shall be equal to one-half of the
15 increase between the amount distributed to the taxing entities
16 pursuant to paragraph (4) of subdivision (a) of Section 34183 in
17 that fiscal year and the amount distributed to taxing entities
18 pursuant to that paragraph in the 2012–13 base year. Loan or
19 deferral repayments made pursuant to this subdivision shall be
20 second in priority to amounts to be repaid pursuant to paragraph
21 (7) of subdivision (e) of Section 34176.

22 (B) Repayments received by the city, county or city and county
23 that formed the redevelopment agency shall first be used to retire
24 any outstanding amounts borrowed and owed to the Low and
25 Moderate Income Housing Fund of the former redevelopment
26 agency for purposes of the Supplemental Educational Revenue
27 Augmentation Fund and shall be distributed to the Low and
28 Moderate Income Housing Asset Fund established by subdivision
29 (d) of Section 34176.

30 (C) Twenty percent of any loan repayment shall be deducted
31 from the loan repayment amount and shall be transferred to the
32 Low and Moderate Income Housing Asset Fund, after all
33 outstanding loans from the Low and Moderate Income Housing
34 Fund for purposes of the Supplemental Educational Revenue
35 Augmentation Fund have been paid.

36 (D) *The loan repayment schedule shall not include amounts*
37 *paid back pursuant to the due diligence review process during the*
38 *2012–13 base year.*

1 (c) (1) Bond proceeds derived from bonds issued on or before
2 December 31, 2010, shall be used for the purposes for which the
3 bonds were sold.

4 (2) (A) Notwithstanding Section 34177.3 or any other
5 conflicting provision of law, bond proceeds in excess of the
6 amounts needed to satisfy approved enforceable obligations shall
7 thereafter be expended in a manner consistent with the original
8 bond covenants. Enforceable obligations may be satisfied by the
9 creation of reserves for projects that are the subject of the
10 enforceable obligation and that are consistent with the contractual
11 obligations for those projects, or by expending funds to complete
12 the projects. An expenditure made pursuant to this paragraph shall
13 constitute the creation of excess bond proceeds obligations to be
14 paid from the excess proceeds. Excess bond proceeds obligations
15 shall be listed separately on the Recognized Obligation Payment
16 Schedule submitted by the successor agency.

17 (B) If remaining bond proceeds cannot be spent in a manner
18 consistent with the bond covenants pursuant to subparagraph (A),
19 the proceeds shall be used to defease the bonds or to purchase
20 those same outstanding bonds on the open market for cancellation.

21 *SEC. 7. Section 34191.5 of the Health and Safety Code is*
22 *amended to read:*

23 34191.5. (a) There is hereby established a Community
24 Redevelopment Property Trust Fund, administered by the successor
25 agency, to serve as the repository of the former redevelopment
26 agency's real properties identified in subparagraph (C) of paragraph
27 (5) of subdivision (c) of Section 34179.5.

28 (b) The successor agency shall prepare a long-range property
29 management plan that addresses the disposition and use of the real
30 properties of the former redevelopment agency. The report shall
31 be submitted to the oversight board and the Department of Finance
32 for approval no later than six months following the issuance to the
33 successor agency of the finding of completion.

34 (c) The long-range property management plan shall do all of
35 the following:

36 (1) Include an inventory of all properties in the trust. The
37 inventory shall consist of all of the following information:

38 (A) The date of the acquisition of the property and the value of
39 the property at that time, and an estimate of the current value of
40 the property.

1 (B) The purpose for which the property was acquired.

2 (C) Parcel data, including address, lot size, and current zoning
3 in the former agency redevelopment plan or specific, community,
4 or general plan.

5 (D) An estimate of the current value of the parcel including, if
6 available, any appraisal information.

7 (E) An estimate of any lease, rental, or any other revenues
8 generated by the property, and a description of the contractual
9 requirements for the disposition of those funds.

10 (F) The history of environmental contamination, including
11 designation as a brownfield site, any related environmental studies,
12 and history of any remediation efforts.

13 (G) A description of the property's potential for transit-oriented
14 development and the advancement of the planning objectives of
15 the successor agency.

16 (H) A brief history of previous development proposals and
17 activity, including the rental or lease of property.

18 (2) Address the use or disposition of all of the properties in the
19 trust. Permissible uses include the retention of the property for
20 governmental use pursuant to subdivision (a) of Section 34181,
21 the retention of the property for future development, the sale of
22 the property, or the use of the property to fulfill an enforceable
23 obligation. The plan shall separately identify and list properties in
24 the trust dedicated to governmental use purposes and properties
25 retained for purposes of fulfilling an enforceable obligation. With
26 respect to the use or disposition of all other properties, all of the
27 following shall apply:

28 (A) (i) If the plan directs the use or liquidation of the property
29 for a project identified in an approved redevelopment plan, the
30 property shall transfer to the city, county, or city and county.

31 (ii) *For purposes of this subparagraph, the term "identified in*
32 *an approved redevelopment plan" includes properties listed in a*
33 *community plan, a five-year implementation plan, or other similar*
34 *document.*

35 (B) If the plan directs the liquidation of the property or the use
36 of revenues generated from the property, such as lease or parking
37 revenues, for any purpose other than to fulfill an enforceable
38 obligation or other than that specified in subparagraph (A), the
39 proceeds from the sale shall be distributed as property tax to the
40 taxing entities.

- 1 (C) Property shall not be transferred to a successor agency, city,
- 2 county, or city and county, unless the long-range property
- 3 management plan has been approved by the oversight board and
- 4 the Department of Finance.